

set forth in paragraph (f)(2) of this section; indicate the report date, fiscal year audited, and identifying information on the independent auditor; and attach a copy of the Schedule of Federal Financial Assistance.

(g) Recipients of more than \$100,000 in Federal funds shall submit one copy of the audit report, within 30 days after issuance, to a central clearing house, designated by OMB. The clearing house will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports.

(h) Recipients shall keep audit reports on file for three years after their issuance.

(Approved by the Office of Management and Budget under control number 2535-0094)

[51 FR 39086, Sept. 27, 1986 (interim rule) and 51 FR 30480, Aug. 27, 1986 (final rule), as amended at 60 FR 15482, Mar. 24, 1995]

§ 44.11 Audit resolution.

(a) As described in § 44.8, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternative arrangements may be made on a case-by-case basis by agreement among the agencies concerned.

(b) Resolution shall be made within six months after receipt of the report by the Federal departments and agencies. Corrective action should proceed as rapidly as possible.

§ 44.12 Audit workpapers and reports.

Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office, at the completion of the audit.

(Approved by the Office of Management and Budget under control number 2535-0094)

§ 44.13 Audit costs.

The cost of audits made in accordance with the audit requirements of this part are allowable charges to Federal assistance programs.

(a) The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provisions of OMB Circular A-87, "Cost principles for State and local governments."

(b) Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual cost.

§ 44.14 Sanctions.

No cost may be charged to Federal assistance programs for audits that are required by this part, but are not conducted in accordance with the audit requirements of this part. In case of a recipient's continued inability or unwillingness to have a proper audit, Federal agencies shall consider other appropriate sanctions, including:

(a) Withholding a percentage of assistance payments until the audit is completed satisfactorily;

(b) Withholding or disallowing overhead costs; and

(c) Suspending the Federal assistance agreement until the audit is made.

§ 44.15 Auditor selection.

In arranging for audit services, State and local governments shall follow the procurement standards prescribed in 24 CFR 85.36. The standards provide that, while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by a State statute (e.g., audit services) the State statute will take precedence.

[53 FR 8056, Mar. 11, 1988]

§ 44.16 Small and minority audit firms.

Small audit firms, and audit firms owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the audit requirements of this part. (As used in this section, the term *small audit firms* includes the term *audit firms controlled by socially and economically disadvantaged individuals*.) Recipients of Federal assistance shall take the following steps to further this goal:

(a) Assure that small audit firms are used to the fullest extent practicable;

(b) Make information on forthcoming opportunities available to, and arrange time schedules for the audit so as to encourage and facilitate participation by, small audit firms;

(c) Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms;

(d) Encourage contracting with small audit firms that have traditionally audited government programs and, in cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities;

(e) Encourage contracting with consortiums of small audit firms when a contract is too large for an individual small firm; and

(f) Use the services and assistance, as appropriate, of the Small Business Administration in the solicitation and utilization of small audit firms.

§ 44.17 Reporting.

HUD shall report to the Director of OMB on or before March 1, 1987, and annually thereafter, on the effectiveness of State and local governments in carrying out the requirements of the OMB Circular. The report shall identify each State or local government or Indian tribe that, in the opinion of HUD, has failed to comply with OMB Circular or with this part.

§ 44.18 HUD audits.

(a) The Secretary of HUD or the Secretary's authorized representative shall have access to all books, accounts, records, reports, files and other papers or property of a recipient orga-

nization pertaining to Federal assistance supplied by HUD to the recipient organization, for the purpose of making specific suveys, audits, examinations, excerpts and transcripts.

APPENDIX TO PART 44—DEFINITION OF MAJOR PROGRAM AS PROVIDED IN THE SINGLE AUDIT ACT OF 1984

Major Federal Assistance Program," for State and local governments having Federal assistance expenditures between \$100,000 and \$100 million dollars, means any program for which Federal expenditures during the applicable year exceed the larger of \$300,000, or 3 percent of such total expenditures.

Where total expenditures of Federal assistance exceed \$100 million, the following criteria apply:

Total expenditures of Federal financial assistance for all programs		Major Federal assistance program means any program that exceeds—
More than—	But less than—	
\$100 million	\$1 billion	\$3 million.
\$1 billion	\$2 billion	\$4 million.
\$2 billion	\$3 billion	\$7 million.
\$3 billion	\$4 billion	\$10 million.
\$4 billion	\$5 billion	\$13 million.
\$5 billion	\$6 billion	\$16 million.
\$6 billion	\$7 billion	\$19 million.
Over \$7 billion	\$20 million.

PART 45—NON-FEDERAL AUDIT REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT INSTITUTIONS

Sec.

45.1 Purpose.

45.2 Scope of audit.

45.3 Frequency of audit.

45.4 Submission of reports.

45.5 Audit costs.

AUTHORITY: 42 U.S.C. 3535(d).

SOURCE: 57 FR 33254, July 27, 1992, unless otherwise noted.

§ 45.1 Purpose.

(a) This part implements the audit requirements for recipient organizations in OMB Circular A-133 "Audits of Institutions of Higher Education and Other Nonprofit Institutions." OMB Circular A-133 was issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; and Executive Order No. 11541.